



COUNTY OF LOS ANGELES

DEPARTMENT OF PUBLIC WORKS

"To Enrich Lives Through Effective and Caring Service"

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone: (626) 458-5100
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DONALD L. WOLFE, Director

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE

REFER TO FILE

WM-6

March 2, 2006

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**THIENES AVENUE GATEWAY PROJECT PHASE II
AGREEMENT WITH THE CITY OF SOUTH EL MONTE
SUPERVISORIAL DISTRICT 1
3 VOTES**

**IT IS RECOMMENDED THAT YOUR BOARD ACTING AS THE GOVERNING BODY
OF THE LOS ANGELES COUNTY FLOOD CONTROL DISTRICT:**

Authorize the Chief Engineer of the Los Angeles County Flood Control District (District), or his designee, to enter into an Agreement, substantially similar in form and content to the sample Agreement enclosed hereto as Exhibit A, with the City of South El Monte that identifies project responsibilities related to the design, implementation, and maintenance of the Thienes Avenue Gateway Project Phase II.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The proposed Thienes Avenue Gateway Project Phase II consists of enhancing an equestrian and bike path entry point to the San Gabriel River Regional Riding and Hiking Trail located on District property adjacent to the City of South El Monte. The project will provide a seating area, native landscaping, bike racks, interpretive signage, decorative fencing, and a gate.

The District, City of South El Monte, San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, and North East Trees have worked closely together during the development of the Thienes Avenue Gateway Project Phase II. North East Trees will design and construct all of the project improvements. The project will be funded by several funding sources, including a \$24,000 contribution from the District previously approved by your Board.

Per the terms of the Agreement, the City of South El Monte will prepare and submit an Operation and Maintenance Plan for the project improvements to the District for approval. The City of South El Monte will be responsible for the maintenance of all project improvements once the project is completed.

Implementation of Strategic Plan Goals

This action is consistent with the County Strategic Plan Goal of Organizational Effectiveness by utilizing a collaborative effort to implement the project. This action also meets the Strategic Plan Goal of Community Services by increasing recreational opportunities and environmental benefits, thereby improving the quality of life for citizens of the County of Los Angeles.

FISCAL IMPACT/FINANCING

There will be no impact to the County's General Fund. Upon completion of project construction, the City of South El Monte will maintain all project improvements.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Agreement will be reviewed and approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

On October 19, 2004, your Board found this project to be categorically exempt from the California Environmental Quality Act (CEQA) in accordance to Sections 15301(c) and (h) and 15304(b) and (h) of the State CEQA guidelines.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

There is no adverse impact on current services.

The Honorable Board of Supervisors
March 2, 2006
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CONCLUSION

Please return three adopted copies of this letter to Public Works.

Respectfully submitted,

DONALD L. WOLFE
Director of Public Works

DB:sv

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Enc.

cc: Chief Administrative Office
County Counsel

A G R E E M E N T

THIS AGREEMENT, made and entered into on the _____ day of _____, 2006, by and between the Los Angeles County Flood Control District, a body corporate and politic (hereinafter referred to as DISTRICT), and the City of South El Monte, a municipal corporation (hereinafter referred to as CITY).

W I T N E S S E T H

WHEREAS, CITY desires the construction and operation of certain improvements (hereinafter referred to as IMPROVEMENTS) at the entryway to the San Gabriel River at Thienes Avenue, located in CITY, as depicted on Attachment 1, attached and made a part hereof; and

WHEREAS, IMPROVEMENTS consist of native landscaping, an irrigation system, seating areas, trash receptacles, a bicycle rack, a drinking fountain, interpretive signage, a catch basin to collect runoff, a retaining wall with fencing, decomposed granite paths, boulder clusters, recycled concrete pavers, associated pilasters, fencing, gates, totem poles, and a light post; and

WHEREAS, completion of IMPROVEMENTS is in the general interest of the residents of CITY and the constituents of DISTRICT; and

WHEREAS, once constructed, IMPROVEMENTS will be located within DISTRICT'S right of way, shown on Attachment 1 (hereinafter referred to as DISTRICT RIGHT OF WAY), and will be operated and maintained entirely by CITY, at CITY'S sole expense; and

WHEREAS, DISTRICT will allow for the construction and operation of IMPROVEMENTS on DISTRICT RIGHT OF WAY under the terms and conditions herein.

NOW, THEREFORE, in consideration of the mutual benefits to be derived by DISTRICT and CITY and of the promises herein contained, it is hereby agreed as follows:

(1) CITY AGREES:

- A. To immediately prepare and submit to DISTRICT for DISTRICT'S approval an Operations and Maintenance Plan (O&M Plan) depicting the steps CITY will take for the maintenance and operation of IMPROVEMENTS, which will at a minimum provide for CITY to:
 - i. Inspect all IMPROVEMENTS and related structures or facilities within, adjacent to, or in the general vicinity of DISTRICT RIGHT OF WAY on a weekly basis to determine the need for graffiti

removal or signage maintenance. Graffiti shall be removed within forty-eight (48) hours of either inspection by CITY or notification by DISTRICT.

- ii. Repair or replace all damaged, defaced, or illegible signs associated with IMPROVEMENTS and other areas within or adjacent to DISTRICT RIGHT OF WAY.
 - iii. Remove trash from receptacles and within, adjacent to, and in the general vicinity of DISTRICT RIGHT OF WAY on a weekly basis.
 - iv. Conduct weekly cleaning, sweeping, and maintenance of IMPROVEMENTS in a manner acceptable to DISTRICT.
 - v. Hand water any landscaping improvements associated with IMPROVEMENTS that are not being serviced by an irrigation line.
 - vi. Refrain from causing or allowing to be caused, the presence, use, storage, or disposal of any hazardous substances on or adjacent to IMPROVEMENTS without the prior written consent of DISTRICT.
 - vii. Provide DISTRICT the name(s) and contact information for person(s) responsible for the maintenance activities set forth in this AGREEMENT.
 - viii. Replace or repair any damaged IMPROVEMENTS in a manner acceptable to DISTRICT.
 - ix. To repair vandalism and perform additional trash removal as may be requested by DISTRICT in areas relating to IMPROVEMENTS within or in the vicinity of DISTRICT RIGHT OF WAY.
- B. To perform in perpetuity all necessary operation and maintenance of all IMPROVEMENTS, at CITY'S sole cost and expense, in strict compliance with the O&M Plan and in a manner acceptable to DISTRICT.
- C. To fund the operation and maintenance of energizing the light post, at CITY'S sole cost and expense.
- D. Notwithstanding the provisions of Section 895, *et. seq.*, of the California Government Code, except for DISTRICT'S act(s) of sole negligence or willful misconduct, to release, defend, indemnify, and hold harmless DISTRICT; the County of Los Angeles and their respective governing Boards; the County of Los Angeles Board of Supervisors (Board) and its individual members and their respective officers, agents, and employees from and against any and all claims, liability and expenses, defense costs,

and legal expenses (including attorneys' and expert fees) including, but not limited to, for personal injury, bodily injury, death, and property damage, and including as may arise out of the presence or release of toxins, hazardous substances, or pollutants, including under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, 42 USC 9601 et. seq.), under the California Health and Safety Code or any State environmental laws, the Resource Conservation and Recovery Act, in connection with or relating to the condition, operation, design, construction, or maintenance of any IMPROVEMENTS, including in connection with any mechanics' liens.

- E. Without limiting CITY'S indemnification of DISTRICT hereunder, CITY shall, at its own expense, take out and maintain in force at all times during the term of this AGREEMENT a policy or policies of insurance covering for comprehensive general liability, which shall include a single-limit liability amount not less than One Million and 00/100 Dollars (\$1,000,000.00) per occurrence. DISTRICT, the County of Los Angeles, their respective governing boards and their members, officers, agents, contractors, and employees, shall be named as additional insureds on all policies of liability insurance. All policies of insurance shall be with a company or companies authorized by law to transact insurance business in the State of California. CITY shall furnish to DISTRICT a Policy of Insurance evidencing CITY'S required coverage no later than ten (10) working days after execution of this AGREEMENT. Upon renewal of said policy, CITY shall furnish to DISTRICT a certificate evidencing CITY'S continued insurance coverage as required herein.

(2) DISTRICT AGREES:

- A. Upon receipt of written notice of the completion of IMPROVEMENTS, to inspect IMPROVEMENTS. If following all needed inspections, DISTRICT determines, in its sole and absolute discretion, that IMPROVEMENTS were completed in a manner acceptable to DISTRICT and this AGREEMENT, DISTRICT will issue a notice of acceptance to CITY and thereafter accept ownership of IMPROVEMENTS.
- B. To authorize CITY access onto DISTRICT RIGHT OF WAY to perform operation and maintenance of all IMPROVEMENTS.

(3) IT IS MUTUALLY UNDERSTOOD AND AGREED AS FOLLOWS:

- A. Use of DISTRICT RIGHT OF WAY and/or IMPROVEMENTS, operating and/or maintaining IMPROVEMENTS, or any provision in this AGREEMENT shall in all cases be subordinate to DISTRICT'S flood control or water conservation purposes, as determined by DISTRICT, in its sole and absolute discretion, and shall in no way conflict with DISTRICT'S

purposes, including, without limitation, flood control and water conservation and related activities authorized by the Los Angeles County Flood Control Act or the California Water Code. Upon thirty (30) days written notice to CITY, DISTRICT reserves the right to cancel any specific use by CITY or the public, or any aspect of this AGREEMENT, should said use or aspect prove incompatible with or interfere with DISTRICT'S flood control, water conservation, or economic development uses, as determined by DISTRICT in DISTRICT'S sole and absolute discretion.

- B. DISTRICT'S review and/or approval of the O&M Plan and IMPROVEMENTS serves the limited purpose of allowing DISTRICT to ascertain performance with its standards and shall in no way relieve CITY from operating and maintaining IMPROVEMENTS in a competent and workmanlike fashion, free from defects.
- C. DISTRICT, its Board, any authorized officer, engineer, employee, contractor, and its agents or representatives shall have full right and authority to enter in and upon DISTRICT RIGHT OF WAY and to access any IMPROVEMENTS at any and all reasonable times during the term of this AGREEMENT, all without interference or hindrance by CITY, its agents, officers, contractors, employees, or representatives for any purpose whatsoever, including for the purposes of: (a) inspecting the same and to serve or post any notice required or permitted by law for protection of any right or interest of DISTRICT, and (b) protection, maintenance, reconstruction, and operation of DISTRICT RIGHT OF WAY, and (c) immediate possession of the same for the purpose of preventing sabotage in case of any emergency, and for the protection of said facility, and in emergencies where lives are endangered or excessive property or environmental damage is threatened.
- D. DISTRICT hereby grants CITY access to and use of DISTRICT RIGHT OF WAY for the purpose of conducting operation and maintenance responsibilities for IMPROVEMENTS or to discharge any other obligation of CITY set forth in this AGREEMENT.
- E. Any and all IMPROVEMENTS will be subject to removal or modification for any DISTRICT flood control purpose as required by DISTRICT, at its sole and absolute discretion, or to allow DISTRICT to respond to any emergencies.
- F. This AGREEMENT and any subsequent permit(s) affecting DISTRICT RIGHT OF WAY that may be issued by DISTRICT, shall terminate, at DISTRICT'S sole discretion, within thirty (30) days written notice from DISTRICT to CITY.

- G. This AGREEMENT is solely by and between DISTRICT and CITY and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association as between DISTRICT and CITY or to benefit any third-party.
- H. No waiver of a breach of any provision in this AGREEMENT shall constitute a waiver of future breaches of this AGREEMENT.
- I. The provisions of this AGREEMENT may be amended only by mutual consent as evidenced in a subsequent written instrument signed by both parties which states the amendment.
- J. This AGREEMENT shall be construed according to the laws of the State of California.
- K. Any correspondence, communication, or contact concerning this AGREEMENT shall be directed to the following:

CITY:

Mr. Gary Chicots
City Manager
City of South El Monte
1415 Santa Anita Avenue
South El Monte, CA 91733-3389

DISTRICT:

Mr. Donald L. Wolfe
Director of Public Works
County of Los Angeles
Department of Public Works
P.O. Box 1460
Alhambra, CA 91802-1460

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IN WITNESS WHEREOF, each party hereto has caused this AGREEMENT to be executed by its duly authorized officer or official.

ATTEST:

LOS ANGELES COUNTY
FLOOD CONTROL DISTRICT,
a body corporate and politic

CITY OF SOUTH EL MONTE

By _____
Chief Engineer

By _____
City Manager

By _____
City Attorney

By _____
City Clerk

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By _____
Deputy

DB:sv
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